IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 22451 of 2007(W)

PETITIONER:

R. KRISHNA MOORTHY NAIR,S/O.K.RAMAN NAIR
AGED 64 YEARS, RADHA BHAVAN, VPS-62,VATTAVILA ROAD
POST THIRUMALA, TRIVANDRUM-695 006 (HEADMASTER(RTD
GOVERNMENT HIGH SCHOOL FOR BLINDS, KUNNAMKULAM,
THRISSUR DISTRICT).

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, TRIVANDRUM-14.

3. THE DEPUTY DIRECTOR OF EDUCATION,
KOTTAYAM DISTRICT.

4. THE DEPUTY DIRECTOR OF EDUCATION,
AYYANTHOLE, THRISSUR DISTRICT.

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K.BASHEER, J.

W.P.(C)No.22451 OF 2007

Dated this the 8th day of August, 2007

JUDGMENT

Petitioner is a retired Headmaster. He impugns Exts.P1 and P5 orders passed by the Deputy Director of Education, Kottayam, fastening a liability of Rs.5,13,493/- on him. There is a further prayer to issue a direction to the respondents to grant him his pensionary benefits and gratuity with penal interest at the rate of 21% from April 1, 1996 till the date of payment.

2. Petitioner retired from service on March 31, 1996. It was thereafter that the Deputy Director of Education, Kottayam, (respondent no.3) had issued Ext.P1 order on April 21, 1997 fastening a liability of Rs.5,13,493/- provisionally. At the relevant point of time, petitioner was working as a Headmaster in the Government High School for Blind at Olassa in Thrissur district. A perusal of Ext.P1 order shows that the above proceedings were initiated pursuant to the objections raised in the audit report for the period from May

1, 1988 to June 30, 1993. A statement showing the details of the amount fixed as liability is also seen appended to Ext.P1.

3. It is seen that petitioner was given an opportunity to raise his objections against the decision to fix the liability on him provisionally. But the petitioner did not respond to the notice even after furnishing him a copy of the audit report. Petitioner had challenged the above order before this court in O.P.31120/01. The original petition was disposed of with a direction to the department to consider the representation, if any, that may be submitted by the petitioner. He was also directed to pay a cost of Rs.5,000/- to the Kerala Legal Services Committee within one month. Ext.P2 is the copy of the judgment and Ext.P3 is the representation submitted by the petitioner pursuant to the direction issued in the judgment. The representation submitted by the petitioner was considered by respondent no.3 and Ext.P5 order was passed by which the liability of Rs.5,13,493/- was confirmed and fastened on the petitioner yet again.

4. It is contended by the learned counsel that petitioner has submitted Ext.P6 revision petition against the above order before the Government in October 2005. The limited prayer is to issue a direction to respondent no.1 to take a decision on Ext.P6. Learned Government Pleader, after getting instructions, submits that the said representation (Ext.P6) could not be traced out in the file.

5. I have carefully perused the materials placed on record. I am not satisfied that the petitioner is entitled to get any relief prayed for in this writ petition. Exts.P1 and P5 orders show that he was afforded sufficient opportunity of hearing before the liability was fastened on him. Ext.P5 will further show that his representation was considered in terms of the direction issued by this court in Ext.P2 judgment. There is nothing on record to show that petitioner had submitted Ext.P6 revision petition before the Government in October 2005.

In the above facts and circumstances, I am not inclined to grant the prayer to quash Exts.P1 and P5 and also to issue

a direction to respondent no.1 to consider Ext.P6 revision petition which is stated to have been filed by him. However, it will be open to the petitioner to pursue the remedy, if any, available to him in accordance with law departmentally.

A.K.BASHEER, JUDGE

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